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JJGJr: 02-04

Paper No: 15

HAROLD CÔTÉ
1728 RUE ST-CHRISTOPHE
MONTREAL
QUEBEC
CANADA H2L 3W8
via Air Mail

COPY MAILED

MAR 05 2004

OFFICE OF PETITIONS

In re Application of: :
Côté, et al. :
Filed: 25 June, 2001 : CORRESPONDENCE
Application No. 09/891,875 :
Docket No.: 03795/000J514-US0 :
:

Dear Harold Côté:

You are named as inventor in the above-identified United States patent application, filed under the provisions of 35 U.S.C. §116 (United States Code), and 37 C.F.R. §1.47, ¶a, Rules of Practice in Patent Cases.

Should a patent be granted on the application you will be designated therein as inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 C.F.R. §1.19) or make your position of record in the application.

Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. §1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733.

Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or toll-free: (800) 972-6382 (outside the Washington D.C. area).

Telephone inquiries concerning this correspondence may be directed to the undersigned at (703) 305-9199.



John J. Gillon, Jr.
Senior Attorney
Office of Petitions

Counsel of Record:
DARBY & DARBY P.C.
805 Third Avenue
New York NY 10022



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DARBY & DARBY P.C.
805 Third Avenue
New York NY 10022

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In re Application of :
Côté, et al. :
Filed: 25 June, 2001 : ON PETITION
Application No. 09/891,875 :
Docket No.: 03795/000J514-US0 :

OFFICE OF PETITIONS

This is a decision on the petition under 37 C.F.R. §1.47(a), filed on 4 December, 2002, supplemented (in reply to a Request for Information) via FAX on 10 March, 2003.

The Office regrets the delay in addressing this matter.

The petition is **GRANTED**.

BACKGROUND

The record indicates:

- the application was filed on 25 June, 2001, without an executed oath or declaration;
- accordingly, a Notice to File Missing Parts of Application was mailed on 17 August, 2001, requiring an executed oath or declaration, and a surcharge for the late filing;
- the original petition (with fee, surcharge for late filing, correspondence and oath/declaration signed by the co-inventor Stephan Giard (Mr. Giard) on behalf of himself and the first named inventor Harold Côté (Mr. Côté) but unsigned by Mr. Harold Côté) was dismissed on 1 August, 2002, for failing to make the required showing under 37 C.F.R. §1.47(a) of an attempt to present/deliver the entire application to Mr. Harold Côté;
- the renewed petition required a request for information, which—though timely submitted was not matched with the file until after the application was deemed abandoned on 17

November, 2003;

- a 12 December, 2003, request to withdraw the holding of abandonment was granted on 20 February, 2004;
- with that 12 December, 2003, petition and its attachments—including copies of documents submitted via FAX on 10 March, 2003—Petitioner has shown proprietary interest/irreparable harm and that, while inventor Mr. Giard has signed the oath/declaration, the non-signing inventor **Mr. Côté** has refused or otherwise failed to join in the filing of the above-identified application after having been presented with the application papers.

Specifically, the declaration/statement/submission of facts of/by Alphonso A. Collins (Reg. No. 43,559) and that of his colleague Gwendoline Bruneau establish that the non-signing inventor was mailed the application papers, including the specification, claims and drawings, but failed to respond positively to the request that he sign the declaration or in fact sign said declaration.

Lastly, Petitioner has submitted a declaration in compliance with 37 C.F.R. §1.63 and §1.64 and Petitioner has shown that such action is necessary to prevent irreparable damage.

This application and papers have been reviewed and found in compliance with 37 C.F.R. §1.47(a).

This application hereby is **ACCORDED status under 37 C.F.R. §1.47(a)**.

As provided under 37 C.F.R. §1.47(a), the Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition.

Notice of the filing of this application also will be published in the Official Gazette.

This file is being forwarded to OIPE for processing as necessary to reflect the instant decision, and then will be forwarded to Technology Center 3700 for further processing in due course.

Telephone inquiries concerning **this decision** may be directed to the undersigned at (703) 305-9199.



John J. Gillon, Jr.
Senior Attorney
Office of Petitions